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# Mixing: A History of Anti-Miscegenation Laws in the United States

By Nyla Provost

*Abstract: For over a century, many Americans believed that interracial marriage was unnatural. From the late 1860s through the late 1960s, the American legal system supported the belief that interracial marriages were illegitimate. In this paper, I examine how anti-miscegenation laws promoted and sustained white supremacy, socioeconomic position, and racial caste using anti-miscegenation literature, legislation, and court cases. This study is significant because it examines the impact that anti-miscegenation laws had on the United States' racial caste system and the American justice system.*

## **Introduction**

Joe Kirby requested an annulment from his wife Mayellen in court on March 21, 1921. Joe Kirby wanted out of his marriage after seven years. He requested an annulment instead of divorce, claiming that his marriage was illegitimate from its beginning because Arizona law forbade marriages between “people of Caucasian ancestry” or “their descendants” and “Negroes, Mongolians, or Indians” and “their descendants.”<sup>1</sup> Joe Kirby claimed that while he was of Caucasian ancestry, his wife, Mayellen, was of African-American ancestry. Because Joe Kirby’s claims were based on a long and terrible precedent of American miscegenation law, his request for annulment was granted without deliberation.<sup>2</sup> After all, anti-miscegenation laws were the law of the land in the early 20th century. For a period of over one hundred

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<sup>1</sup> C.J Ross, “Kirby v. Kirby Case,” Case Law Access Project, accessed June 5, 2022, <https://cite.case.law/ariz/24/9/>.

<sup>2</sup> Ross, “Kirby v. Kirby”

years, the United States banned marriages between whites and non-whites in an effort to promote a white-dominated society and legal system while maintaining the purity and superiority of the white race.

In this current day and age, interracial relationships are, in most cases, widely accepted in the U.S., but this has not always been the case. When surveying history, the topic of miscegenation has been shaped by various attitudes toward it. For example, in early colonial America (1492-1763), miscegenation was fairly accepted, but towards the latter end of the seventeenth century, it became more taboo and eventually forbidden in some colonies.

It is also important to note that miscegenation has been deeply ingrained into American history since its earliest beginnings in the Jamestown Colony, the first successful American colony. In the spring of 1614, a group diverse of European settlers and Native Indians, gathered in a room in Jamestown, Virginia to witness the marriage of Pocahontas (c.1596-1617) and John Rolfe (1585-1622), which was the first interracial marriage to be officiated on American soil. By the time the American Revolution (1763-1783) occurred interracial relationships in the American Colonies had skyrocketed. As a result, between 60,000 and 120,000 persons of “mixed” origin lived in the colonies at the time of the American Revolution.<sup>3</sup>

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<sup>3</sup> “Laws That Banned Mixed Marriages,” Ferris State University, 2010, <https://www.ferris.edu/HTMLS/news/jimcrow/question/2010/may.htm>.



Figure 1: *The Marriage of John Rolfe and Pocahontas.*<sup>4</sup>

However, even in the midst of the rising number of interracial unions, mixed-race relationships in the American colonies were still frowned upon by many, especially in Virginia. Ironically, Virginia (the first colony to officiate an interracial marriage) became the first colony to ban interracial marriages in 1661.<sup>5</sup> Miscegenation laws spread as the number of colonies increased; and by 1910, at least twenty-eight states had passed anti-miscegenation legislation.

The word miscegenation first made its way into American society in the early 1860s. The definition of the word, according to the Oxford English Dictionary, is the “mixing of or reproduction between different racial or ethnic groups, or between individuals belonging to different racial or ethnic groups; esp. sexual relationships and reproduction between white and non-white people; marriage or cohabitation by members of different ethnic

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<sup>4</sup> “The Marriage of Pocahontas and John Rolfe, 1614,” Landmark Events, August 4, 2017, <https://landmarkevents.org/history-highlight-week-of-april-2/>.

<sup>5</sup> “Laws That Banned Mixed Marriages,” Ferris State University, 2010.

groups.”<sup>6</sup> “Miscegenation: The Theory of the Blending of the Races, Applied to the American White Man and Negro” was the title of an anonymous propaganda tract released in New York City in 1864. The booklet claimed that the United States Republican Party supported “interbreeding” of “whites” with “negros,” which would ultimately lead to a point where the races would be indistinguishable.<sup>7</sup> David Goodman Croly, the managing editor of the *New York World*, a Democratic Party publication, and George Wakeman, a reporter, were the pamphlets’ authors. The pamphlet was quickly exposed as a ruse to damage the Republicans, the Lincoln administration, and the abolitionist movement by using the concerns and racial prejudices prevalent among whites at the time.

Nonetheless, Republican opponents reproduced this pamphlet, and variants of it, widely in towns on both sides of the American Civil War (1861-1865). The term “miscegenation” swiftly entered widespread usage and became a popular buzzword in political and social circles. For more than a century, white segregationists falsely accused abolitionists and subsequent proponents for African American equality of covertly plotting the white race’s demise through miscegenation.

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<sup>6</sup> “Miscegenation,” Oxford Reference, Accessed 8 June. 2022, <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100201137>.

<sup>7</sup> Mark Sussman, “The ‘Miscegenation’ Troll,” *Daily-JSTOR*, February 20, 2019, <https://daily.jstor.org/the-miscegenation-troll/>



Figure 2: Political caricature published in 1864.<sup>8</sup>

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<sup>8</sup> "Political Caricature. No. 4, the Miscegenation Ball," The Library of Congress, accessed April 2023, <https://www.loc.gov/item/2008661682/>. On September 22, 1864, a Republican campaign dance took place at the Lincoln Central Campaign Club in New York, as seen in this hand-colored lithograph. In the image Republican officials can be seen dancing, chatting, and mingling with stylishly attired black females. Black women are scandalously kissed and held by Lincoln supporters who are seated on the corners of the room. Northern Democrats opposed abolition by exploiting worries about widespread racial mingling, or miscegenation, which they claimed would inevitably happen if Lincoln won a second term.

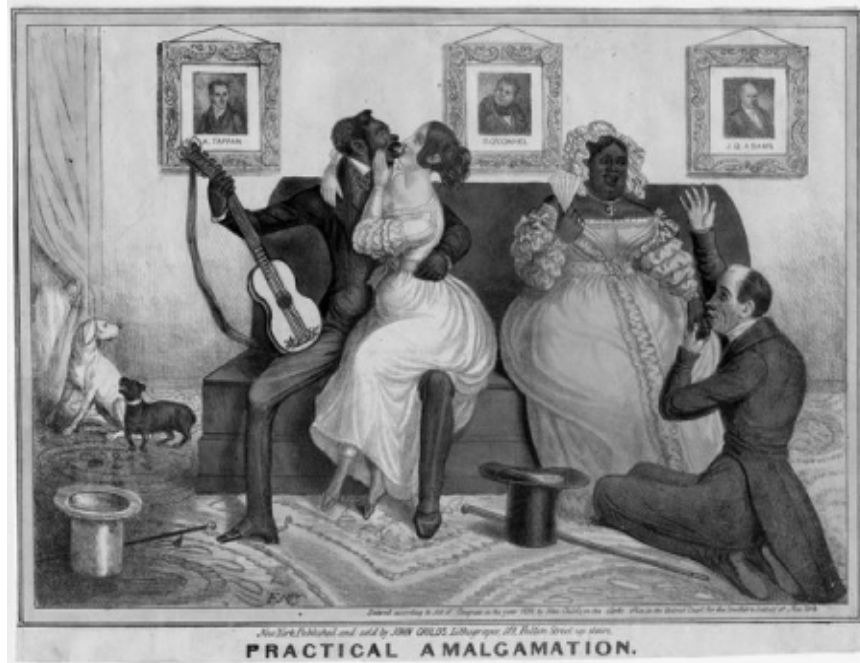


Figure 3: A political caricature published in 1835.<sup>9</sup>

<sup>9</sup> “Practical Amalgamation,” Library Company of Philadelphia Digital Collections, n.d., [https://digital.librarycompany.org/islandora/object/Islandora%3A65140?solr\\_nav%5Bid%5D=7159a6940a8c4cc272ba&solr\\_nav%5Bpage%5D=0&solr\\_nav%5Boffset%5D=5](https://digital.librarycompany.org/islandora/object/Islandora%3A65140?solr_nav%5Bid%5D=7159a6940a8c4cc272ba&solr_nav%5Bpage%5D=0&solr_nav%5Boffset%5D=5). An 1835 racist print promoting anti-abolitionists’ fears of multiracial personal relationships. Depicts a parlor scene where two interracial couples court on a couch. On the left, an attractive white woman sits on the lap of an African American man. The man, depicted in racist caricature with grotesque facial features, holds a guitar in his right hand as she engages him in a kiss. On the right, a rotund African American woman holds a fan in her right hand as she is wooed by a slender white man on his knees who kisses her left hand. Portraits of abolitionists Arthur Tappan, Daniel O’Connell (a radical Irish abolitionist), and John Quincy Adams are hung on the wall behind the couch. A white and black dog is in the left corner.

The one-drop hypothesis, which maintained that anyone having even “one drop” of African “blood” must be considered “black,” was one of the most effective strategies used to discourage the practice.<sup>10</sup> Sexual relations between white males and African slave women were publicly denounced but secretly conducted and implicitly accepted before the Civil War. White women were considered sexually constrained by Victorian ideas of purity and religion, but black women were portrayed as more passionate and exotic. Slave women were portrayed as outlets for male sexual needs, while white women were urged to stay pure. Slavery relied on an expanding slave population, which led to enslavers ignoring or participating in the sexual exploitation of slave women. Slave women were deemed promiscuous despite the harsh and forceful abuse they endured. The development of negative imagery was justified by their high birth rates and revealing clothes, both of which were implications of their status as property. The prohibition on free black and white marriages fostered the sexual exploitation of black women, which further emphasized their inferiority to white women, and legitimized the white male’s sexual advances towards them. Many American states implemented anti-miscegenation legislation in the 18th, 19th, and early 20th centuries based on disputed readings of the Bible, notably the account of Phinehas. These laws, classified as felonies, made it illegal to solemnize weddings between people of different ethnic groups and officiate such ceremonies.

Individuals attempting to marry were often charged with felony charges of adultery or fornication and miscegenation; Connecticut, New Hampshire, New York, New Jersey, Vermont, Wisconsin, Minnesota, Alaska, Hawaii, and Washington, D.C. were the only states to never draft such laws. In the 1883 decision *Pace v. Alabama*, the United States Supreme Court affirmed the validity of anti-miscegenation legislation.<sup>11</sup> These statutes were

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<sup>10</sup> Hickman, Christine B, “The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census.” *Michigan Law Review* 95, no. 5 (1997): 1161–1265. <https://doi.org/10.2307/1290008>

<sup>11</sup> “*Pace v. State of Alabama.*,” Legal Information Institute (Legal



still in effect in the 20th century. Additional clauses were added in the 1924 “Bill to Preserve the Integrity of the White Race,” which defined “white” as those without non-white blood and barred whites from marrying non-whites, except those with less than one-sixteenth of American Indian ancestry. White women were seen as safe havens for white racial legitimacy, white males were implicitly permitted to have mulatto (mixed race) offspring without jeopardizing white racial purity. Judge Leon Bazile of the Virginia trial court condemned an interracial couple who married in Washington, D.C., to prison in 1965, writing: “The races of white, black, yellow, and red were created by Almighty God and put on distinct continents. He did not intend for the races to mix, as evidenced by the fact that he divided them.”<sup>12</sup> This case became known as *Loving v. Virginia*, in which the Supreme Court banned anti-miscegenation laws in 1967.

The case of Nell Butler, sometimes known as “Irish Nell,” is perhaps the most well-known case of anti-miscegenation legislation. In 1681, while working as an indentured servant in Maryland, Irish Nell fell in love with and married “Negro Charles,” a Black slave. When Nell informed her owner, Lord Baltimore, of her plans, he cautioned her that she and her children were destined to live as slaves. Nell answered, defying her master’s desires, that she would rather marry Charles than Lord Baltimore himself. Nell spent the remainder of her life working for Charles’ owners, most likely as an indentured servant.<sup>13</sup>

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Information Institute), accessed June 8, 2022,  
<https://www.law.cornell.edu/supremecourt/text/106/583>

Section 4189 declares that ‘if any white person and any negro, or the descendant of any negro to the third generation, inclusive, though one ancestor of each generation was a white person, intermarry or live in adultery or fornication with each other, each of them must, on conviction, be imprisoned in the penitentiary or sentenced to hard labor for the county for not less than two nor more than seven years.’”

<sup>12</sup> *Loving v. Virginia*,” Legal Information Institute (Legal Information Institute), accessed June 8, 2022,  
[https://www.law.cornell.edu/wex/loving\\_v\\_virginia\\_\(1967\)](https://www.law.cornell.edu/wex/loving_v_virginia_(1967)).

<sup>13</sup> Moran, Rachael, “Love with a Proper Stranger: What Anti-Miscegenation

When discussing the history of anti-miscegenation laws, *Loving v. Virginia* has always been the staple case. But when discussing miscegenation, it is just as important to recognize the significance of *Brown v. Board of Education* (1952-1954), the Supreme Court case that deemed segregation unconstitutional and legalized school integration. Though scholars do not connect *Loving v. Virginia* to *Brown* when discussing miscegenation, their connections are undeniable, so much so that scholars have noted that it could be argued that *Loving v. Virginia* was a continuation of *Brown v. Board*.<sup>14</sup>

Miscegenation will always be the elephant when discussing school integration, segregation, and white supremacy. The biggest threat to the Jim Crow South was the fear of blacks and whites mixing socially and intimately.

For white segregationists in the South, removing the racial barriers provided through segregation would harm the preservation of white racial purity. Desegregation in the public school systems would open the door for intimate social relationships between the two races and ultimately break the social system of white supremacy and black inferiority. For these reasons, The *Brown v. Board* decision caused intense uproar and backlash in the South. White Southerners understood that the *Brown* case was about so much more than just education. They knew that the *Brown* decision could deeply transform intimate relations between whites and blacks. Along with a fear of interracial relationships also comes the fear of what these relationships could produce. Individuals born with mixed-race identities had always been a

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Laws Can Tell Us About the Meaning of Race, Sex, and Marriage,”  
HeinOnline, March 8, 2021,  
<https://heinonline.org/HOL/LandingPage?handle=hein.journals%2Fhoflr32&div=60&id=&page=>

<sup>14</sup> Reginald Oh, “Interracial Marriage in the Shadows of Jim Crow: Racial Segregation as a System of Racial and Gender Subordination,” *UC Davis Law Review* 39 (2006): pp. 1323-1350,  
[https://doi.org/https://lawreview.law.ucdavis.edu/issues/39/3/defining-voices-critical-race-feminism/davisvol39no3\\_oh.pdf](https://doi.org/https://lawreview.law.ucdavis.edu/issues/39/3/defining-voices-critical-race-feminism/davisvol39no3_oh.pdf)

problem in American society. In the South, the increased production of mixed-race children threatened to destabilize a system of racial segregation rooted in keeping social relations between blacks and whites separate and distinct. An increased population of mixed-race individuals would make it harder to preserve such racial boundaries. This fear alone fueled resistance and backlash to mixing blacks and whites. The political controversy the Brown case caused was so great, that it could be argued that the supreme court rejected the *Naim v Naim* case a year after Brown was decided (upheld miscegenation laws in Mississippi) because they did not want to cause any more political or social uproar by taking on such a case.<sup>15</sup>

In *Naim v. Naim* (1955), a white woman in Virginia sued to have her marriage to her Chinese American husband annulled. Although both were Virginia residents, the couple had traveled to North Carolina to avoid the anti-miscegenation statute of Virginia. The statute also prevented Virginia residents from traveling to another state to marry and did not consider such marriages legal. Because of this, the wife won the case, and the Virginia Supreme Court annulled the marriage and upheld the statute's constitutionality. After this decision, the case was appealed to the U.S. Supreme Court, but the higher court denied hearing the case.

Furthermore, the Virginia Supreme Court explained the purpose behind the anti-miscegenation law: preserving white racial purity.<sup>16</sup> The court underscored miscegenation's dangers for the white race and its racial purity. If interracial relationships were legalized, mixed-race couples would procreate and produce a "mongrel breed of people," erasing white racial identity and degrading the integrity of the formerly white population.<sup>17</sup> Although the Brown decision concentrated on the negative effects of racial segregation in education at public schools, segregation did not just work to limit black students' access to higher education. It served as an anti-miscegenation policy as well. Its

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<sup>15</sup> Reginald Oh, "Interracial Marriage in the Shadows of Jim Crow."

<sup>16</sup> Reginald Oh, "Interracial Marriage in the Shadows of Jim Crow."

<sup>17</sup> Reginald Oh, "Interracial Marriage in the Shadows of Jim Crow."

overarching goal was to stop interracial relationships from growing in public schools.



Figure 4: A rally against integrating Central High School in Little Rock, Arkansas in 1959.

Protestors connected school desegregation to race mixing and race mixing to both communism and “the Anti-Christ.” One case that exemplifies the underlying connection between racial segregation in schools and miscegenation is *Rice v. Gong Lum* (1927).<sup>18</sup> This Court’s reasoning made it clear that racial segregation in public schools was supported by a fundamental policy that forbade interracial marriages and racial mixing. The question of whether a Chinese American girl born in the U.S. should be obliged to attend a white or black public school was presented to the court in the *Gong Lum* case. According to the Mississippi Supreme Court, the Chinese American kid was considered “colored” for constitutional purposes, and the only public school she could attend was one with only black students. The court concluded that Chinese Americans

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<sup>18</sup> “*Gong Lum v. Rice*, 275 U.S. 78 (1927),” Justia Law, n.d., <https://supreme.justia.com/cases/federal/us/275/78/>

should be treated as “colored” for school segregation based on Mississippi’s anti-miscegenation law. Whites and the “Mongolian race” were prohibited from marrying under the anti-miscegenation law. The court detailed the reasoning for their decision as follows:

To all persons acquainted with the social conditions of this state and of the Southern states generally, it is well known that it is the earnest the desire of the white race to preserve its racial integrity and purity, and to maintain the purity of social relations as far as can be done by law. It is known that the dominant purpose of the two sections of the Constitution of our state were to preserve the integrity and purity of the white race. When the public school system was being created, it was intended that the white race should be separated from all other races.<sup>19</sup>

In the opinion of the Mississippi Supreme Court, racial segregation in public schools did not serve mainly as an educational purpose. In order to protect white racial purity and white supremacy, racial segregation in public schools served as an anti-miscegenation objective by preventing the emergence of interracial relationships. White Americans across the country saw racial segregation in public schools in the late nineteenth and early twentieth centuries as a crucial strategy for maintaining the purity of the white race.

A California state legislation issued in 1860 forbade members of ethnic minorities from going to school with white children. A California newspaper printed an editorial supporting the segregation law, praising the law’s capacity to “keep our public schools free from the intrusion of the inferior races.”<sup>20</sup> It highlighted the anti-miscegenation goals of racially segregating

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<sup>19</sup> “Gong Lum v. Rice, 275 U.S. 78 (1927),” Justia Law, n.d.

<sup>20</sup> Reginald Oh, “Interracial Marriage in the Shadows of Jim Crow.”

schools:

If we are compelled to have Negroes and Chinamen among us, it is better, of course, that they should be educated. But teach them separately from our children. Let us preserve our Caucasian blood pure. We want no mongrel race of moral and mental hybrids to people the mountains and valleys of California.<sup>21</sup>

Hence, the desire to stop the emergence of intimate relationships between whites and people of color and the goal to racially separate public schools were inextricably linked. The fear of miscegenation was not just in the Jim Crow South but also in Hollywood. The Motion Picture Production Code, often known as the Hays Code, was an extensive set of rules that regulated the content of American movies from the late 1930s through the late 1960s. It was given the name in honor of Will H. Hays the MPPDA's (Motion Picture Producers and Distributors of America) then-president. The Hays Code covered a wide range of topics, including depictions of sexuality, violence, and race. The Hays Code significantly contributed to racial segregation and the propagation of racial stereotypes in terms of anti-miscegenation. Any portrayal of interracial relationships or unions was outlawed by the Hays Code. The Hays Code prohibited any favorable depiction or normalization of interracial relationships in movies in order to promote racial segregation and uphold white supremacy. The Hays Code not only outlawed the portrayal of interracial relationships but also promoted racial stereotypes by misrepresenting non-white characters. African Americans, in particular, were often depicted as subservient, docile, and intellectually inferior to white characters. They usually played conventional roles that supported racial hierarchy and white supremacy, such as servants, comedians, or other types of roles.

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<sup>21</sup> Reginald Oh, "Interracial Marriage in the Shadows of Jim Crow."

The code was aggressively enforced from 1934 until the late 1940s, and films that broke it were prevented from being released. This occurred with the 1935 film *Princess Tam Tam*, directed by Josephine Baker and starring the entertainer Black Venus as a mysterious Tunisian woman who becomes a French novelist's muse. The French-made film could not run in most major theaters in the United States because it did not receive a Production Code Administration certificate of approval. Still, it did develop a cult following in independent theaters that catered to black audiences.

While anti-miscegenation laws were used to classify racial differences and create a racial hierarchy between Blacks and Whites in colonial America and the Jim Crow South, they served a different purpose in the case of Asian immigrants who arrived on the West Coast in the mid-to the late 1800s, particularly in California. When gold was discovered in the mid-19th century, the Chinese were the first to arrive in large numbers.<sup>22</sup> The Chinese were considered sojourners under the immigration regulations, people who arrived momentarily to work and then returned to their native country. The majority of the migratory workforce was male. Only seven of the 11,794 Chinese in 1852 were female.<sup>23</sup> By 1870, Chinese males outnumbered Chinese women by 14 to 1.8.<sup>24</sup> Because Chinese males were only coming to dig but not to remain, the U.S. authorities explained that they were ineligible for citizenship because they were unassimilable non-White immigrants. Anti-miscegenation laws were not necessary to identify Chinese immigrants as non-White due to these strict immigration regulations. Large groups of foreign males living in bachelor communities, on the other hand, raised concerns about debauched and degraded encounters with White women.

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<sup>22</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>23</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>24</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

Intermarriage restrictions were thought to be crucial in expressing the Chinese male racial inferiority by limiting their access to White women.

In 1890, a large number of Japanese immigrants arrived in California.<sup>25</sup> Chinese numbers had fallen due to stringent restrictions, but the Japanese flocked from Hawaii and their home country to the West Coast to seek greater economic prospects. The Japanese remained ineligible for citizenship as non-White aliens; as the proportion of women immigrants progressively grew, they formed healthy, self-contained, and self-sufficient communities. Female Japanese immigration increased from 16 percent in 1905 to over 50 percent in 1909.<sup>26</sup> By 1920, the gender ratio had dropped to 1.6 to 1, and practically every adult Japanese girl was married.<sup>27</sup> The Japanese government had carefully scrutinized the immigrants who came to America to maintain Japan's worldwide image. As a result, arrivals possessed greater literacy rates and resources than their European counterparts.

Many Japanese became successful farmers and small business owners, living in flourishing, prosperous communities with their families. Because of the Japanese's considerable liberty and prosperity, anti-miscegenation laws may appear inconsequential in controlling their sexual and marital behavior. However, the possibility of an independent society of foreigners on American soil sparked a new set of racial anxieties. Some Californians thought Japanese men would use their newfound wealth to claim White women.

A farmer mentioned a Japanese person who lived on an eighty-acre plot of land in California in the early 1920s: "A white woman lives with that Japanese. A baby is in the woman's arms. What is that little one? It's not from Japan. It's not pure

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<sup>25</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>26</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>27</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."



white. That baby, I'll tell you about. It's the seed of the state's most serious problem, making the South's black crisis appear white."<sup>28</sup> At the same time, there were profound fears that interracial mingling was as repulsive to Japanese newcomers as it was to White natives: they had no concept of integrating in the sense of amalgamation, and they had immense pride in their race.<sup>29</sup>

When anti-miscegenation laws were enacted in California, the Japanese found themselves in an odd situation. They were legally barred from mixing with Whites across the color line, but their wealth obscured the gravity of their segregation. Bans on mixing looked as much as a welcoming principle of endogamy as a criminal penalty for exogamy, rather than restricting a racial hierarchy, given the independence and affluence of the "proud Yamato race." Anti-miscegenation laws were rarely used on Native Americans and never Latinos, unlike Blacks and Asians.

The 20th century brought numerous developments that made interracial relationships more acceptable and popular, as well as undermined the United States' racial caste system. Around World War I (1914-1918), the first large-scale African-American migration brought several million African-Americans into Northern states that had never had laws against racial mixing, partially because these Northern areas had never had many African-American citizens. As African-American neighborhoods increased and Whites discovered means to limit their social exposure to Blacks, residential segregation spread in the North. Interracial marriages between whites and non-whites did not start to surge in the United States until after World War II (1939-1945), with the biggest growth occurring after 1960.<sup>30</sup>

This is largely because the United States organized its

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<sup>28</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>29</sup> Morgan, "Love with a Proper Stranger: What Anti-Miscegenation Laws Can Tell Us About the Meaning of Race, Sex, and Marriage."

<sup>30</sup> Ella Marie West, "Before 'Loving'," Arts & Sciences at Washington University in St. Louis, December 1, 2017, <https://artsci.wustl.edu/before-loving>

whole society to combat fascism during World War II. Nazi Germany's crimes discredited theories of White biological superiority, which had been used to support anti-miscegenation laws and other discriminatory legislation.<sup>31</sup> Citizens challenged anti-miscegenation statutes in state courts in the wake of World War II. As a result, the California Supreme Court was the first to declare anti-miscegenation statutes unconstitutional in *Perez v. Sharpe*, a case decided in 1948.<sup>32</sup> A dozen states followed California's lead and repealed laws against racial marrying, but several others, primarily in the South, did not.

The United States Supreme Court unanimously held in *Loving v. Virginia*, in 1967, that all remaining state statutes and state constitutional provisions prohibiting intermarriage based on race were unconstitutional and hence unenforceable. However, anti-miscegenation laws remained unenforced for decades until the last of them was repealed in 2000 by a public referendum in Alabama.<sup>33</sup>

The United States began to see a "biracial baby boom" in

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<sup>31</sup> Johnson, Stefanie, "Blocking Racial Intermarriage Laws in 1935 and 1937," Seattle's First Civil Rights Coalition, accessed June 8, 2022,

<https://depts.washington.edu/civilr/antimiscegenation.htm>

<sup>32</sup> "Perez v. Sharp," Supreme Court of California, accessed June 8, 2022,

<https://scocal.stanford.edu/opinion/perez-v-sharp-26107>. Civil Code, section 69, implements Civil Code, section 60, which provides: "All marriages of white persons with negroes, Mongolians, members of the Malay race, or mulattoes are illegal and void." This section originally appeared in the Civil Code in 1872, but at that time it prohibited marriages only between white persons and Negroes or mulattoes. It [32 Cal.2d 713] succeeded a statute prohibiting such marriages and authorizing the imposition of certain criminal penalties upon persons contracting or solemnizing them. (Stats. 1850, ch. 140, p. 424.) Since 1872, Civil Code, section 60, has been twice amended, first to prohibit marriages between white persons and Mongolians (Stats. 1901, p. 335) and subsequently to prohibit marriages between white persons and members of the Malay race.

<sup>33</sup> Gene Owens, "Alabama Voters to Decide Fate of Miscegenation Ban," The Pew Charitable Trusts, October 23, 2000,

<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2000/10/23/alabama-voters-to-decide-fate-of-miscegenation-ban>

the late 1960s. Unfortunately, just because interracial marriages were suddenly legal did not mean interracial couples, or their children, were widely accepted in society. This truth was tragically demonstrated in the 1996 instance of a Georgia church whose officials chose to disinter the remains of a mixed-race newborn who had been buried in the church's all-white cemetery. The church eventually reversed their decision and allowed the infant to stay in the family plot after the decision drew national notice and outcry. After refusing to marry the baby's parents, a white lady and a black man, the church made prime-time news again barely a week later.<sup>34</sup>

Since the outlawing of anti-miscegenation laws, many studies have been conducted to assess the sociological, psychological, and economic effects of anti-miscegenation on perceptions of interracial relationships, race, class, and gender roles in the United States. Ruby Jo Reeves Kennedy was the first American researcher to conduct a thorough examination of historical data on interracial marriage trends. Kennedy utilized marriage license data from New Haven, Connecticut, to argue that the United States was a triple melting pot with deep religious distinctions between Catholics, Protestants, and Jews, rather than a single melting pot into which all ethnic groups were poured and mingled. There were hundreds of religious intermarriages within Kennedy's original sample of over 9,000 marriage records from New Haven between 1870 and 1940, but only five weddings between Whites and Blacks.<sup>35</sup>

The irony of this study is that interracial marriage had never been outlawed in Connecticut. Still, Kennedy's statistics revealed (and later census data analysis have verified) that racial marriages were uncommon in the past even when it was permitted. Due to the minimal number of racial intermarriages, Kennedy chose to disregard the problem of race and concentrate on

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<sup>34</sup> Barbara Cruz, "The American Melting Pot? Miscegenation Laws in the United States," JSTOR (Oxford University Press, 2001), <https://www.jstor.org/stable/25163474>

<sup>35</sup> Cruz, "The American Melting Pot? Miscegenation Laws in the United States."

religious intermarriage. Because the U.S. Census and other official federal surveys do not generally include questions on religion, newer data is difficult to come by; Kennedy's work on religious intermarriage and the triple melting pot remains influential.

Another groundbreaking and frequently quoted work on interracial marriage is Milton Gordon's extensive essay on *Assimilation in American Life*. Gordon claimed that frequent intermarriage between an immigrant group (and their descendants) and the dominant native group was a potent push for deeper assimilation and a definite indicator that the last phases of assimilation had already occurred. Gordon admired how early 20th-century immigrants, primarily from Southern and Eastern Europe, had managed to integrate into American culture, particularly White American society. When the Poles, Italians, and Greeks (among others) initially arrived in the United States, they encountered a lot of prejudice. Still, over three generations, they managed to integrate into the majority White ethnic group. Gordon believed that frequent interracial marriage between early 20th-century immigrant groups (such as Italians, Poles, and Greeks) and already established White ethnic groups (English, Germans, and Irish) was proof that Southern and Eastern European national groups had assimilated into White America.

Though there is a logical connection between anti-miscegenation laws and eugenics, they are distinct in that the goal of anti-miscegenation was to prevent degeneration of the higher (e.g., white) races through social (legal) control. In contrast, eugenics was scientific in nature and sought to promote higher reproduction of people with desired traits (positive eugenics) and reduced reproduction of people with less-desired or undesired traits (negative eugenics). However, during the 20th century, many eugenicists became proponents of anti-miscegenation legislation. The Racial Integrity Act of 1924 in Virginia, for example, was ruled unconstitutional by the United States Supreme Court in 1967 because it had several elements that linked to eugenic concepts.<sup>36</sup>

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<sup>36</sup> Wolfe, Brendan, "Racial Integrity Laws (1924–1930)," Encyclopedia

Since 1967, the percentage of new marriages involving partners of different races and ethnicities has climbed fivefold, from 3% in 1967 to 17% in 2015. Interracial marriages have also gained appeal in recent years. For example, the percentage of non-black persons in the United States who said they would oppose a close relative marrying a black spouse fell from 63% in 1990 to 14% in 2016.<sup>37</sup>

Interracial marriages are on the rise, according to social scientists, as a sign of the shrinking social barrier between racial and ethnic groupings. They argue that crossing racial/ethnic lines for marriage indicates that individuals of different racial groupings recognize each other as “social equals.” Even though attitudes about interracial marriage have improved and the number of interracial marriages has grown, interracial couples continue to face familial resistance, ostracism, and hostility from strangers and neighbors.<sup>38</sup>

Worldwide sentiments regarding other people’s interracial partnerships are far more positive than attitudes toward their or a family member’s interracial relationships. Even if they believe interracial marriages are a “positive thing for society,” some people may reject a close relative’s marrying.

Some parents may reject their children’s intermarriage because they are concerned that their in-laws, with whom they appear to have nothing in common, would not understand them.

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Virginia, accessed June 8, 2022, <https://encyclopediavirginia.org/entries/racial-integrity-laws-1924-1930/>.

<sup>37</sup> Rosenfeld, Michael, “The Racial Caste System,” *The Racial Caste System* (Stanford University Press), accessed June 8, 2022, [https://web.stanford.edu/~mrosenfe/Rosenfeld\\_Intermarriage\\_Sage\\_Encyclopedia.pdf](https://web.stanford.edu/~mrosenfe/Rosenfeld_Intermarriage_Sage_Encyclopedia.pdf).

<sup>38</sup> Livingston, Gretchen, “Public Views on Intermarriage,” Pew Research Center’s Social & Demographic Trends Project (Pew Research Center, May 30, 2020), <https://www.pewresearch.org/social-trends/2017/05/18/2-public-views-on-intermarriage/>.

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